

Missouri Attorney General's Opinions - 2010

Opinion	Date	Topic	Summary
17-2010	Apr 7	CHARTER CITIES. CITY UTILITIES. FEES. MUNICIPALITIES. ORDINANCES. SOLID WASTES. TRASH.	A charter city is authorized to impose a city-wide trash service upon its citizens. If the city chooses to make the service mandatory, a citizen may not legally refuse to pay for the trash services. The city may bill the service as part of a water bill, but only if the trash service fee is stated separately, and with the restriction that the city may not shut off other utilities for non-payment of trash service.
18-2010	Jan 7	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Marc Ellinger (version 2a) regarding a proposed amendment to Chapter 92, Revised Statutes of Missouri.
19-2010	Jan 7	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Marc Ellinger (version 4a) regarding a proposed amendment to Chapter 92, Revised Statutes of Missouri.
20-2010	Jan 7	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Marc Ellinger (version 6a) regarding a proposed amendment to Chapter 92, Revised Statutes of Missouri.
21-2010	Jan 7	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Marc Ellinger (version 8a) regarding a proposed amendment to Chapter 92, Revised Statutes of Missouri.
22-2010	Jan 7	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Marc Ellinger (version 10a) regarding a proposed amendment to Chapter 92, Revised Statutes of Missouri.
23-2010	Jan 13	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition (version 2) submitted by Bradley Ketcher to amend Chapters 86 and 87, Revised Statutes of Missouri.
24-2010	Jan 14	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note summary prepared for an initiative petition submitted by Bradley Ketcher (version 1) pertaining to a statutory amendment to Chapter 84, Revised Statutes of Missouri.
25-2010	Jan 14	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note summary prepared for an initiative petition submitted by Bradley Ketcher (version 2) pertaining to a statutory amendment to Chapter 84, Revised Statutes of Missouri.
26-2010	Jan 14	INITIATIVE PETITION.	Review and approval of the legal content and form of a fiscal note

		INITIATIVES.	summary prepared for an initiative petition submitted by Bradley Ketcher (version 3) pertaining to a statutory amendment to Chapter 84, Revised Statutes of Missouri.
<u>27-2010</u>	Jan 13	INITIATIVE PETITION. INITIATIVES.	Review and rejection of the sufficiency as to form of an initiative petition submitted by Theo Ted Brown pertaining to the recall of a St. Louis County official.
<u>29-2010</u>	Jan 21	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Bradley Ketcher (version 1) regarding a proposed amendment to Chapter 84, Revised Statutes of Missouri.
<u>30-2010</u>	Jan 21	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Bradley Ketcher (version 2) regarding a proposed amendment to Chapter 84, Revised Statutes of Missouri.
<u>31-2010</u>	Jan 21	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Bradley Ketcher (version 3) regarding a proposed amendment to Chapter 84, Revised Statutes of Missouri.
<u>33-2010</u>	Jan 29	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note summary prepared for an initiative petition submitted by Bradley Ketcher (version 2) pertaining to a statutory amendment to Chapters 86 and 87, Revised Statutes of Missouri.
<u>36-2010</u>	Feb 5	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Bradley Ketcher (version 2) regarding a proposed amendment to Chapters 86 and 87, Revised Statutes of Missouri.
<u>41-2010</u>	Feb 25	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition submitted by Steven Reed to amend Article IV, Section 17 of the Missouri Constitution.
<u>42-2010</u>	Feb 25	INITIATIVE PETITION. INITIATIVES.	Review and rejection of the sufficiency as to form of an initiative petition submitted by Steven Reed pertaining to a constitutional amendment to Article IV, Section 30 of the Missouri Constitution.
<u>43-2010</u>	Feb 25	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition submitted by Steven Reed to amend Article IV, Section 36 of the Missouri Constitution.
<u>47-2010</u>	Dec 14	Board of Mediation. Department of Labor and Industrial Relations. Disclosure of Records. Employees.	The list of personal care attendants' addresses cannot be closed under §610.021(13), which authorizes closure of "[i]ndividually identifiable personnel records, performance ratings or records pertaining to employees..." because the names and addresses are not "records pertaining to employees" that can be closed under §610.021(13), nor "trade secrets" that can be closed under §610.021(14), via the "Missouri Uniform Trade Secrets Act," §§417.450 to 417.467, because

		Intellectual Property. Mailing Addresses. Open Public Records. Personnel Records. Sunshine Law.	the list consists of information made public by statute. Therefore, the Sunshine Law's general presumption of openness applies and the records are open.
50-2010	Mar 18	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note summary prepared for an initiative petition submitted by Steven Reed amending Article IV, Section 36 of the Missouri Constitution.
51-2010	Mar 18	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note summary prepared for an initiative petition submitted by Steven Reed amending Article IV, Section 17 of the Missouri Constitution.
54-2010	Mar 18	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Steven Reed regarding a proposed amendment to Article IV, Section 36 of the Missouri Constitution.
55-2010	Mar 18	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Steven Reed regarding a proposed amendment to Article IV, Section 17 of the Missouri Constitution.
56-2010	Apr 22	DISABILITY. DISABLED PERSONS. DISCRIMINATION. HOUSING. HUMAN RIGHTS COMMISSION - HUMAN RIGHTS.	Persons who have disabilities that interfere with their ability to occupy a dwelling, but who can occupy a dwelling with reasonable accommodation, have a "disability" within the meaning of Section 213.010(4), and can file a complaint and bring suit under the Missouri Human Rights Act.
57-2010	Apr 22	DISCRIMINATION. HOUSING. HUMAN RIGHTS COMMISSION - HUMAN RIGHTS.	The Missouri Human Rights Act protects from coercion, intimidation, and harassment based on race, color, religion, national origin, ancestry, sex, disability, or familial status any person who exercises their fair housing rights under the Missouri Human Rights Act.
58-2010	Mar 24	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition (version 2) submitted by Steven Reed to amend Article IV, Section 30 of the Missouri Constitution.
62-2010	Apr 9	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note summary prepared for an initiative petition submitted by Steven Reed (version 2) amending Article IV, Section 30 of the Missouri Constitution.
64-2010	Apr 15	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Steven Reed (version 2) regarding a proposed amendment to Article IV, Section 30 of the Missouri

			Constitution.
65-2010	Apr 22	INITIATIVE PETITION. INITIATIVES.	Review and rejection of the sufficiency as to form of an initiative petition submitted by Theodis Brown pertaining to the MOSERS Board of Trustees.
72-2010	May 26	FAIR BALLOT LANGUAGE.	Review and approval of the legal content and form of the proposed fair ballot language for the initiative petition relating to earnings taxes.
73-2010	May 27	FAIR BALLOT LANGUAGE.	Review and approval of the legal content and form of the proposed fair ballot language for the initiative petition relating to repealing the non partisan court plan.
74-2010	May 27	FAIR BALLOT LANGUAGE.	Review and approval of the legal content and form of the proposed fair ballot language for the initiative petition relating to dog breeders.
75-2010	May 27	FAIR BALLOT LANGUAGE.	Review and approval of the legal content and form of the proposed fair ballot language for the initiative petition relating to real estate taxation.
76-2010	June 7	BALLOTS. INITIATIVE AND REFERENDUM. REFERENDUM.	Review and approval of the legal content and form of the fiscal note summary for Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1764 for a referendum to repeal and enact sections relating to insurance.
78-2010	June 23	FAIR BALLOT LANGUAGE.	Review and approval of the legal content and form of the proposed fair ballot language for Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1764.
91-2010	Nov 12	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition submitted by Herman Kriegshauser to amend Article X of the Missouri Constitution.
92-2010	Nov 18	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition submitted by Ron Calzone to amend Article VI of the Missouri Constitution.
93-2010	Nov 18	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition submitted by Ron Calzone to amend Article I of the Missouri Constitution, version 1a.
94-2010	Nov 18	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition submitted by Ron Calzone to amend Article I of the Missouri Constitution, version 1b.
95-2010	Nov 24	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition submitted by Richard LaViolette to amend Article X of the Missouri Constitution.
98-2010	Dec 2	INITIATIVE PETITION.	Review and approval of the legal content and form of a fiscal note

		INITIATIVES.	summary prepared for an initiative petition submitted by Herman Kriegshauser pertaining to a constitutional amendment to Article X, Section 25 of the Missouri Constitution.
<u>99-2010</u>	Dec 2	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Herman Kriegshauser regarding a proposed amendment to Article X of the Missouri Constitution.
<u>100-2010</u>	Dec 2	INITIATIVE PETITION. INITIATIVES.	Review and rejection of the sufficiency as to form of an initiative petition submitted by Theodis Brown regarding a proposed statutory amendment related to Chapter 288, RSMo.
<u>101-2010</u>	Dec 9	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note summary prepared for an initiative petition submitted by Ron Calzone amending Article VI, Section 21 of the Missouri Constitution.
<u>102-2010</u>	Dec 9	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note summary prepared for an initiative petition (version 1a) submitted by Ron Calzone amending Article VI, Section 21 and Article I, Sections 26, 27, and 28 of the Missouri Constitution.
<u>103-2010</u>	Dec 9	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note summary prepared for an initiative petition (version 1b) submitted by Ron Calzone amending Article VI, Section 21 and Article I, Sections 26, 27, and 28 of the Missouri Constitution.
<u>104-2010</u>	Dec 10	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note summary prepared for an initiative petition submitted by Richard LaViolette pertaining to a proposed amendment to Article X of the Missouri Constitution.
<u>105-2010</u>	Dec 10	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Ron Calzone regarding a proposed amendment to Article VI of the Missouri Constitution.
<u>106-2010</u>	Dec 10	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Ron Calzone regarding a proposed amendment to Article I of the Missouri Constitution, version 1a.
<u>107-2010</u>	Dec 10	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Ron Calzone regarding a proposed amendment to Article I of the Missouri Constitution, version 1b.
<u>108-2010</u>	Dec 15	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition submitted by Matt Cologna to amend Chapter 115 of the Revised Statutes of Missouri.
<u>109-2010</u>	Dec 16	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Richard LaViolette regarding a proposed

			amendment to Article X of the Missouri Constitution.
<u>111-2010</u>	Dec 23	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition (version 1) submitted by Matt Cologna to amend Article VIII of the Missouri Constitution.
<u>112-2010</u>	Dec 23	INITIATIVE PETITION. INITIATIVES.	Review and approval of the sufficiency as to form of an initiative petition (version 2) submitted by Matt Cologna to amend Article VIII of the Missouri Constitution.
<u>115-2010</u>	Dec 23	INITIATIVE PETITION. INITIATIVES.	Review and rejection of the sufficiency as to form of an initiative petition submitted by Theodis Brown regarding an amendment related to the S.S.A.
<u>116-2010</u>	Dec 30	INITIATIVE PETITION. INITIATIVES.	Review and approval of the legal content and form of a fiscal note summary prepared for an initiative petition submitted by Matt Cologna regarding a proposed amendment to Chapter 115, RSMo.
<u>117-2010</u>	Dec 30	INITIATIVE PETITION. INITIATIVES.	Review and approval of a summary statement prepared for the initiative petition submitted by Matt Cologna regarding a proposed amendment to Chapter 115, RSMo.

CHARTER CITIES:
CITY UTILITIES:
FEES:
MUNICIPALITIES:
ORDINANCES:
SOLID WASTES:
TRASH:

A charter city is authorized to impose a city-wide trash service upon its citizens. If the city chooses to make the service mandatory, a citizen may not legally refuse to pay for the trash services. The city may bill the service as part of a water bill, but only if the trash service fee is stated separately, and with the restriction that the city may not shut off other utilities for non-payment of trash service.

OPINION NO. 17-2010

April 7, 2010

Honorable Chris Molendorp
State Representative, District 123
State Capitol Building, Room 400CC
201 West Capitol Avenue
Jefferson City, Missouri 65101

Dear Representative Molendorp:

This opinion is in response to your request regarding whether a city—in this case, the City of Raymore, a charter city—may impose a city-wide trash service upon its citizens, whether a citizen may legally refuse the trash services, and whether the city may bill the trash collection service as part of a water bill.

Generally, cities and other municipal corporations, “have no inherent powers but are confined to those expressly delegated by the sovereign and to those powers necessarily implied in the authority to carry out the delegated powers.” *Christian County v. Edward D. Jones and Co., L.P.*, 200 S.W.3d 524, 527 (Mo. banc 2006), quoting *Premium Standard Farms, Inc. v. Lincoln Township of Putnam County*, 946 S.W.2d 234, 238 (Mo. banc 1997). Cities and public corporations “may only exercise powers (1) granted to them in express words by the state, (2) those necessarily and fairly implied in or incident to those powers expressly granted, and (3) those essential and indispensable to the declared objectives and purposes of the county.” *Borron v. Farrenkopf*, 5 S.W.3d 618, 620-21 (Mo. App. W.D. 1999); *Premium Standard Farms, Inc. v. Lincoln Township of Putnam County*, 946 S.W.2d at 238. If the local governmental body acts beyond its authority, its acts are void. *Borron v. Farrenkopf*, 5 S.W.3d at 620.

When a city is given a delegation of power by the legislature, the city “is necessarily left with large discretion as to the method to be adopted and the manner in which it is to be done. And there exists a presumption of reasonableness that attaches to such ordinances.” *Craig v. City of Macon*, 543 S.W.2d 772, 775 (Mo. banc 1976) (citations and quotation marks omitted). But, even though a city has discretion in how to use its powers, a city does not have the ability to expand on those powers:

[A]ny reasonable doubt as to whether a power has been delegated to a municipality is resolved in favor of non-delegation. Where the legislature has authorized a City to exercise a power and prescribed its exercise, the right to exercise the power given in any other manner is necessarily denied. Courts have generally followed a strict rule of construction when construing the powers of municipalities.

State ex rel. Birk v. City of Jackson, 907 S.W.2d 181, 184 (Mo. App. E.D. 1995) (citations and quotation marks omitted).

Your initial question is whether cities are allowed to impose a city-wide trash service on its citizens. Cities are given power to provide for the collection of solid waste in § 260.215.1, RSMo 2000. This section requires “each city and each county” or combination thereof to provide “for the collection and disposal of solid wastes” for areas served by the “solid waste management system.”¹ *Id.* All cities and counties have power to pass ordinances to manage solid waste. Section 260.215.2, RSMo 2000. And, § 260.215.3(1), RSMo 2000, gives cities and counties power to contract “with any person, city, county, common sewer district, political subdivision, state agency or authority in this or other states to carry out their responsibilities for the storage, collection, transportation, processing, or disposal of solid wastes.” Thus, the city or county may either operate trash collection services itself, or may contract with privately-owned trash collection services, as long as those private companies adequately eliminate the trash problem. Section 260.215.3(1)-(2),

¹Because § 260.215, RSMo 2000, gives power to all cities and counties, it makes no difference whether they are organized under charter or some other form of government, or which class they are. In contrast, § 71.680, RSMo 2000, is another source of authority for “second, third, or fourth class” cities to collect trash. *See State ex rel. Birk v. City of Jackson*, 907 S.W.2d 181, 185-86 (Mo. App. E.D. 1995) (§ 260.215, RSMo, gives power to all cities, while § 71.680, RSMo, only applies to certain classes of cities).

RSMo 2000. Under this statute, a city does have power to impose a city-wide trash service upon its citizens.

Your next question is whether a citizen may legally refuse the trash service. Section 260.215, RSMo 2000, allows cities to make trash collection mandatory, and set a mandatory fee to pay for trash collection, whether or not the city resident actually uses the trash collection service. *Craig v. City of Macon*, 543 S.W.2d 772, 774-75 (Mo. banc 1976). Therefore, cities, including Raymore, may provide trash service for all residents and charge all residents for that service. A citizen may refuse to use the trash service, but would still be legally obligated to pay for that service. *Id.*

Your final question is whether the city may bill the trash collection service as part of a water bill. The legislature has given cities power to contract with utilities “to collect monthly service fees for the collection of solid waste.” Section 260.215.6, RSMo 2000. Therefore, cities may bill for the trash collection service as part of a water bill. However, this power is limited by § 260.215.5, RSMo 2000, in two ways.

First, if a city “establishes a service charge for solid waste collection services,” that city “shall state the service charge separately from any other charge of any kind.” *Id.* Therefore, utilities may not lump water and garbage collection into one fee and bill it as one item. On the monthly bill, utilities must state the water fee separately from the trash collection fee.

Second, “[n]o city or county shall withhold, or authorize the withholding of, any other utility service for failure to collect the separately stated service charge.” Therefore the legislature barred cities from shutting off other utilities for non-payment of trash service.² That means that if a city bills water and trash service together, and a citizen only pays enough money to cover the water portion of the bill, the city cannot apply the payment to trash first and deem the water bill to be unpaid. The legislature chose to bar cities from using the threat of cutting off other utilities as a means of enforcing a trash collection fee.

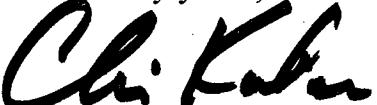
²Even if the City of Raymore creates a contract which obligates it to pay a private trash collector whether or not the citizens pay their fees, the city may not avoid this limitation. If a municipality does not have the power to do something, no private contract can give it that power. Section 432.070, RSMo Cum. Supp. 2009 (city may not make contracts outside the scope of its power); *Div. Cavalry Brigade v. St. Louis County*, 269 S.W.3d 512, 516 (Mo. App. E.D. 2008) (contracts not complying with § 432.070, RSMo, are unenforceable).

And where the legislature has expressly refused to allow cities to exercise a power, a city's attempt to circumvent the statute will be invalid. *State ex rel. Birk v. City of Jackson*, 907 S.W.2d 181, 184 (Mo. App. E.D. 1995) ("any reasonable doubt as to whether a power has been delegated to a municipality is resolved in favor of non-delegation"). A city cannot use the structure of a utility bill as a means to obtain power that the legislature has declined to delegate to the city.

Therefore, although cities such as the City of Raymore may bill trash collection service as part of a water bill, they must list the trash collection fee separately from all other fees. Also, if a person does not pay the entire bill, but pays enough money to cover everything but trash, the city may not apply that money to trash first and then shut off other utilities as a penalty for non-payment.

CONCLUSION

A charter city is authorized to impose a city-wide trash service upon its citizens. If the city chooses to make the service mandatory, a citizen may not legally refuse to pay for the trash services. The city may bill the service as part of a water bill, but only if the trash service fee is stated separately, and with the restriction that the city may not shut off other utilities for non-payment of trash service.

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

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P.O. Box 899
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January 7, 2010

OPINION LETTER NO. 18-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 31, 2009, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Marc Ellinger (version 2a) regarding a proposed amendment to Chapter 92, Revised Statutes of Missouri. The proposed summary statement is as follows:

Shall Missouri law be amended to:

- require voters in certain cities that have or may have in the future a population in excess of 700,000 and have an earnings tax to approve continuation of such tax at the next general municipal election and at an election held every 5 years and if not approved the tax will be phased out over 5 years; and
- prohibit any city except for certain cities that have or may have in the future a population of more than 450,000 but less than 700,000 from using earnings taxes to fund their budget?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we

The Honorable Robin Carnahan
Page 2

take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,



CHRIS KOSTER
Attorney General



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January 7, 2010

OPINION LETTER NO. 19-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 31, 2009, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Marc Ellinger (version 4a) regarding a proposed amendment to Chapter 92, Revised Statutes of Missouri. The proposed summary statement is as follows:

Shall Missouri law be amended to:

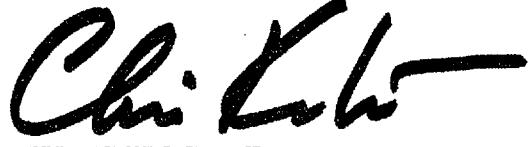
- require voters in certain cities that have or may have in the future a population in excess of 700,000 and have an earnings tax to approve continuation of such tax at the next general municipal election and at an election held every 5 years and if not approved the tax will be phased out over 10 years; and
- prohibit any city except for certain cities that have or may have in the future a population of more than 450,000 but less than 700,000 from using earnings taxes to fund their budget?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we

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take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,



CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

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CHRIS KOSTER
ATTORNEY GENERAL

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January 7, 2010

OPINION LETTER NO. 20-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 31, 2009, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Marc Ellinger (version 6a) regarding a proposed amendment to Chapter 92, Revised Statutes of Missouri. The proposed summary statement is as follows:

Shall Missouri law be amended to:

- require voters in certain cities that have or may have in the future a population in excess of 700,000 and have an earnings tax to approve continuation of such tax at the next general municipal election and at an election held every 10 years and if not approved the tax will be phased out over 10 years; and
- prohibit any city except for certain cities that have or may have in the future a population of more than 450,000 but less than 700,000 from using earnings taxes to fund their budget?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we

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Very truly yours,



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January 7, 2010

OPINION LETTER NO. 21-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 31, 2009, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Marc Ellinger (version 8a) regarding a proposed amendment to Chapter 92, Revised Statutes of Missouri. The proposed summary statement is as follows:

Shall Missouri law be amended to:

- require voters in certain cities that have or may have in the future a population in excess of 700,000 and have an earnings tax to approve continuation of such tax at the next general municipal election and at an election held every 5 years and if not approved the tax will be phased out over 10 years; and
- prohibit any city except for certain cities that have or may have in the future a population of more than 450,000 but less than 700,000 from using earnings taxes to fund their budget?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we

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Very truly yours,


CHRIS KOSTER
Attorney General



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JEFFERSON CITY
65102

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January 7, 2010

OPINION LETTER NO. 22-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 31, 2009, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Marc Ellinger (version 10a) regarding a proposed amendment to Chapter 92, Revised Statutes of Missouri. The proposed summary statement is as follows:

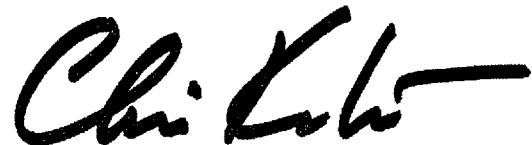
Shall Missouri law be amended to eliminate the ability of cities to use earnings taxes to fund their budgets by requiring certain cities that have or may have in the future a population in excess of 700,000 to phase out any earnings tax over a ten year period and prohibiting any city except for certain cities that have or may have in the future a population of more than 450,000 but less than 700,000 from using earnings taxes as a potential source of revenue?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we

The Honorable Robin Carnahan
Page 2

take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,



CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

P.O. Box 899
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CHRIS KOSTER
ATTORNEY GENERAL

January 13, 2010

OPINION LETTER NO. 23-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated January 4, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Chapters 86 and 87, Revised Statutes of Missouri, submitted by Bradley Ketcher (version 2).

We approve the petition as to form, but § 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

CHRIS KOSTER
Attorney General



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P.O. Box 899
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January 14, 2010

OPINION LETTER NO. 24-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of January 8, 2010, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Bradley Ketcher (version 1). The fiscal note summary that you submitted is as follows:

It is estimated this proposal would allow the City of St. Louis to eliminate duplicative and unnecessary administrative functions that could result in unknown savings. Reductions in reimbursements from the state's Legal Expense Fund could result in state revenue savings up to \$1 million annually.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,
A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
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P.O. Box 899
(573) 751-8821

January 14, 2010

OPINION LETTER NO. 25-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of January 8, 2010, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Bradley Ketcher (version 2). The fiscal note summary that you submitted is as follows:

It is estimated this proposal would allow the City of St. Louis to eliminate duplicative and unnecessary administrative functions that could result in unknown savings. Reductions in reimbursements from the state's Legal Expense Fund could result in state revenue savings up to \$1 million annually.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
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P.O. Box 899
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January 14, 2010

OPINION LETTER NO. 26-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of January 8, 2010, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Bradley Ketcher (version 3). The fiscal note summary that you submitted is as follows:

It is estimated this proposal would allow the City of St. Louis to eliminate duplicative and unnecessary administrative functions that could result in unknown savings. Reductions in reimbursements from the state's Legal Expense Fund could result in state revenue savings up to \$1 million annually.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-8321

January 13, 2010

OPINION LETTER NO. 27-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated January 12, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition, submitted by Theo Ted Brown.

We conclude that the petition must be rejected for at least the following reasons:

- The petition is not in the form prescribed by § 116.040, RSMo 2000.
- The petition does not contain “all matter which is to be deleted included in its proper place enclosed in brackets and all new matter shown underlined” as required pursuant to § 116.050, RSMo 2000.

Because of our rejection of the form of the petition for the reasons stated above, we have not reviewed the petition to determine if additional deficiencies exist. Pursuant to § 116.332.3, RSMo 2000, the Secretary of State is authorized to review this opinion and “make a final decision as to the approval or rejection of the form of the petition.”

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

January 21, 2010

OPINION LETTER NO. 29-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated January 14, 2010, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Bradley Ketcher (version 1) regarding a proposed amendment to Chapter 84, Revised Statutes of Missouri. The proposed summary statement is as follows:

Shall Missouri law be amended to allow any city not within a county, currently St. Louis City, the option to replace the current state control over that city's municipal police force by passing an ordinance that establishes local control of the city's municipal police force?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

January 21, 2010

OPINION LETTER NO. 30-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated January 14, 2010, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Bradley Ketcher (version 2) regarding a proposed amendment to Chapter 84, Revised Statutes of Missouri. The proposed summary statement is as follows:

Shall Missouri law be amended to allow any city not within a county, currently St. Louis City, the option to replace the current state control over that city's municipal police force and police retirement benefits system by passing ordinances that establish local control of the city's municipal police force and police retirement benefits?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink that reads "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
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P.O. Box 899
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January 21, 2010

OPINION LETTER NO. 31-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated January 14, 2010, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Bradley Ketcher (version 3) regarding a proposed amendment to Chapter 84, Revised Statutes of Missouri. The proposed summary statement is as follows:

Shall Missouri law be amended to allow any city not within a county, currently St. Louis City, the option to replace the current state control over that city's municipal police force and police retirement benefits system by passing ordinances that establish local control of the city's municipal police force and police retirement benefits?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
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(573) 751-3321

January 29, 2010

OPINION LETTER NO. 33-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of January 22, 2010, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Bradley Ketcher (version 2). The fiscal note summary that you submitted is as follows:

It is estimated this proposal would provide the City of St. Louis the opportunity to control rising pension costs that could result in unknown savings. It is estimated this proposal will have no costs or savings to state governmental entities.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

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P.O. Box 899
(573) 751-3321

February 5, 2010

OPINION LETTER NO. 36-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated January 29, 2010, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Bradley Ketcher (version 2) regarding a proposed amendment to Chapters 86 and 87, Revised Statutes of Missouri. The proposed summary statement is as follows:

Shall Missouri law be amended to allow any city not within a county, currently St. Louis City, the option to replace the current state control over that city's municipal police and firefighters' retirement benefits systems by passing ordinances that establish local control of the city's municipal police and firefighters' retirement benefits?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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P.O. Box 899
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CHRIS KOSTER
ATTORNEY GENERAL

February 25, 2010

OPINION LETTER NO. 41-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated February 17, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Article IV, Section 17 of the Missouri Constitution, submitted by Steven Reed.

We approve the petition as to form, but § 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink that reads "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
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P.O. Box 899
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February 25, 2010

OPINION LETTER NO. 42-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated February 17, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition, submitted by Steven Reed.

We conclude that the petition must be rejected for at least the following reasons:

- The petition is not in the form prescribed by § 116.040, RSMo 2000;
- The petition does not contain “all matter which is to be deleted included in its proper place enclosed in brackets and all new matter shown underlined” as required pursuant to § 116.050, RSMo 2000;
- The petition includes a new section 30(d), which number is already used in the Constitution.

Because of our rejection of the form of the petition for the reasons stated above, we have not reviewed the petition to determine if additional deficiencies exist. Pursuant to § 116.332.3, RSMo 2000, the Secretary of State is authorized to review this opinion and “make a final decision as to the approval or rejection of the form of the petition.”

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

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P.O. Box 899
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CHRIS KOSTER
ATTORNEY GENERAL

February 25, 2010

OPINION LETTER NO. 43-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated February 17, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Article IV, Section 36 of the Missouri Constitution, submitted by Steven Reed.

We approve the petition as to form, but § 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

CHRIS KOSTER
Attorney General

BOARD OF MEDIATION:
DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS:
DISCLOSURE OF RECORDS:
EMPLOYEES:
INTELLECTUAL PROPERTY:
MAILING ADDRESSES:
OPEN PUBLIC RECORDS:
PERSONNEL RECORDS:
SUNSHINE LAW:

The list of personal care attendants' addresses cannot be closed under § 610.021(13), which authorizes closure of “[i]ndividually identifiable personnel records, performance ratings or records pertaining to employees . . .” because the names and addresses are not “records pertaining to employees” that can be closed under § 610.021(13), nor “trade secrets” that can be closed under § 610.021(14), via the “Missouri Uniform Trade Secrets Act,” §§ 417.450 to 417.467, because the list consists of information made public by statute. Therefore, the Sunshine Law’s general presumption of openness applies and the records are open.

OPINION NO. 47-2010

December 14, 2010

Mr. Lawrence G. Rebman, Director
Missouri Department of Labor and Industrial Relations
421 East Dunklin Street
P.O. Box 504
Jefferson City, MO 65102-0504

Dear Mr. Rebman:

This opinion is in response to your question asking whether a list of personal care attendants' addresses that were provided to the State Board of Mediation for the purpose of permitting it to conduct a bargaining representation election by mail for a statewide unit of personal care attendants as provided by § 208.862, RSMo, is subject to closure under the Missouri Sunshine Law, Chapter 610, RSMo.¹

Your question requires consideration of The Quality Home Care Act, §§ 208.850 to 208.871, RSMo, and the Missouri Sunshine Law, §§ 610.010 to 610.035, RSMo. The Sunshine Law, pursuant to § 610.022.5, provides: “Public records shall be presumed to

¹All citations are to RSMo Cum. Supp. 2009.

be open unless otherwise exempt pursuant to the provisions of this chapter.” A “public record” is:

any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body, . . .

Section 610.010(6), RSMo.

The general rule is that records held by agencies such as the Missouri Department of Labor and Industrial Relations are open to the public, unless an exception applies. Two exceptions merit discussion here.

The first is § 610.021(13), which authorizes a public governmental body to close records to the extent they relate to “[i]ndividually identifiable personnel records, performance ratings or records pertaining to employees” The question here would be whether names and addresses of personal care attendants are “personnel records, . . . pertaining to employees” such that the public governmental body is authorized to close them as “records pertaining to employees.” Section 610.021(13), RSMo.

In interpreting statutes, we ascertain the legislature’s intent by considering the plain and ordinary meaning of the words in the statute. *Cox v. Dir. of Revenue*, 98 S.W.3d 548, 550 (Mo. banc 2003). In particular, § 208.862 provides:

3. The [Quality Home Care Council] shall be a public body as that term is used in section 105.500, RSMo, and personal care attendants shall be employees of the council solely for purposes of section 105.500, RSMo, et seq.

....

7. Personal care attendants shall not be considered employees of the state of Missouri or any vendor for any purpose.

By its terms, this section demonstrates the legislature’s intent to limit the designation of personal care attendants as “employees” to a single context, namely, the context of public sector labor law, §§ 105.500 to 105.530, RSMo. (That law grants the

right to form and join a labor organization to employees of a public body, and designates the State Board of Mediation to resolve issues of appropriateness of bargaining units and majority representative status.) This limitation suggests that the personal care attendants are not to be considered “employees” in any other context. Thus, in the context of the Sunshine Law, the personal care attendants would not be considered “employees,” so even if the addresses of personal care attendants were “personnel records,” you would not be authorized to close the records pursuant to § 610.021, unless an exception other than subdivision (13) is applicable.

The second exception is § 610.021(14), which provides that a public governmental body is authorized to close-except to the extent disclosure is otherwise required by law—“[r]ecords which are protected from disclosure by law[.]” The only law identified to us as perhaps protecting the list of personal care attendants’ addresses from disclosure is the “Missouri Uniform Trade Secrets Act,” §§ 417.450 to 417.467, RSMo. Under this law, a court has power to enjoin actual or threatened misappropriation of trade secrets and award monetary damages for misappropriation. Sections 417.455 to 417.457, RSMo. Trade secrets include compilations of data that have “independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from [their] disclosure or use” and are “the subject of efforts that are reasonable under the circumstances to maintain [their] secrecy.” Section 417.453(4), RSMo. Misappropriation includes acquisition of a trade secret by improper means, such as misrepresentation, or disclosure by someone who knew the trade secret was obtained “under circumstances giving rise to a duty to maintain its secrecy or limit its use.” Section 417.453(1) and (2), RSMo.

The Missouri Uniform Trade Secrets Act does not explicitly make misappropriation illegal, for example, by stating: “individuals may not misappropriate trade secrets.” But by defining misappropriation and providing legal remedies for it, including injunctive relief and monetary damages, it has legally protected certain trade secrets from disclosure. Therefore, certain trade secrets “are protected from disclosure by law,” which fits the requirements for the exception under the Sunshine Law. Section 610.021(14), RSMo. Accordingly, if the list of personal care attendants’ addresses is a trade secret, and disclosing the list would be a misappropriation of that trade secret, the agency may not have to disclose the list.

The list of personal care attendants’ addresses does not fit the definition of trade secret. Section 208.856.1 creates the “Quality Home Care Council” (“Council”), which is required to exercise certain functions relating to personal care attendants, including to “[e]stablish and maintain a statewide list of eligible, available personal care attendants, in cooperation with vendors, . . .” Section 208.859(5). Such list is accessible to all consumers seeking personal care attendants. *Id.* Therefore, the compilation of personal care attendants’ information is available to the public, as distinguished from a list not generally known or kept secret. § 417.453(4), RSMo. Because the information regarding

personal care attendants is required to be maintained in a way that the statute makes public, the information cannot be a trade secret.²

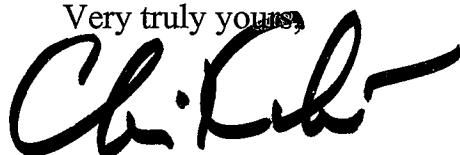
Because the list of personal care attendants' addresses cannot be closed under either § 610.021(13) or § 610.021(14), the records are presumed open. Based on the above considerations, we do not believe there is a basis for declining to provide the records requested in the circumstances identified in your opinion request.

This conclusion is further supported by the public policy underlying the Sunshine Law, contained in § 610.011.1, RSMo, that: "It is the public policy of this state that . . . records, . . . of public governmental bodies be open to the public unless otherwise provided by law. Sections 610.010 to 610.200 shall be liberally construed and their exceptions strictly construed to promote this public policy."

CONCLUSION

In conclusion, the list of personal care attendants' addresses cannot be closed under § 610.021(13), which authorizes closure of "[i]ndividually identifiable personnel records, performance ratings or records pertaining to employees . . ." because the names and addresses are not "records pertaining to employees" that can be closed under § 610.021(13), nor "trade secrets" that can be closed under § 610.021(14), via the "Missouri Uniform Trade Secrets Act," §§ 417.450 to 417.467, because the list consists of information made public by statute. Therefore, the Sunshine Law's general presumption of openness applies and the records are open.

Very truly yours,



CHRIS KOSTER
Attorney General

²Because the list of personal care attendants' addresses does not fit the definition of a trade secret in § 417.453(4), RSMo, analysis of whether disclosure of the list would be considered "misappropriation" is unnecessary.



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
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CHRIS KOSTER
ATTORNEY GENERAL

March 18, 2010

OPINION LETTER NO. 50-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of March 9, 2010, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Steven Reed amending Article IV, Section 36 of the Missouri Constitution. The fiscal note summary that you submitted is as follows:

The additional revenue generated by the levy of a sales and use tax of one-tenth of one percent for one year is approximately \$77 million. The estimated cost to state governmental entities is \$75,750. It is estimated the proposal would have no cost or savings to local governmental entities.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

March 18, 2010

OPINION LETTER NO. 51-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of March 9, 2010, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Steven Reed amending Article IV, Section 17 of the Missouri Constitution. The fiscal note summary that you submitted is as follows:

State governmental entities could incur costs up to \$7 million for recall elections, depending on the date of the election. Costs to state governmental entities for reimbursement of legal and personal recall election expenses of a state officer who is not recalled are unknown. Local governmental entities could incur costs for recall elections.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
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March 18, 2010

OPINION LETTER NO. 54-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated March 11, 2010, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Steven Reed regarding a proposed amendment to Article IV, Section 36 of the Missouri Constitution. The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to impose for a period of one year a state sales/use tax of one tenth of one percent to provide additional money for the State Economic Development Department to be used solely for the promotion and development of one or more "Technology Parks" in southwest Missouri, subject to the provisions of and to be collected as provided in the "Sales Tax Law" and the "Compensating Use Tax Law" and subject to the rules and regulations promulgated in connection therewith?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

March 18, 2010

OPINION LETTER NO. 55-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated March 11, 2010, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Steven Reed regarding a proposed amendment to Article IV, Section 17 of the Missouri Constitution. The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to allow voters to recall
elected state officers?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General

DISABILITY:
DISABLED PERSONS:
DISCRIMINATION:
HOUSING:
HUMAN RIGHTS COMMISSION –
HUMAN RIGHTS:

Persons who have disabilities that interfere with their ability to occupy a dwelling, but who can occupy a dwelling with reasonable accommodation, have a “disability” within the meaning of § 213.010(4), and can file a complaint and bring suit under the Missouri Human Rights Act.

OPINION NO. 56-2010

April 22, 2010

Mr. Lawrence G. Rebman, Director
Missouri Department of Labor and
Industrial Relations
421 East Dunklin Street
Jefferson City, MO 65101

Dear Mr. Rebman:

You pose two questions relating to the Missouri Human Rights Act (“MHRA”), Chapter 213, RSMo, resulting from an inquiry from the U.S. Department of Housing and Urban Development (“HUD”) to the Missouri Commission on Human Rights. The HUD questions apparently arise because of differences between the MHRA and the federal Fair Housing Act.

Before addressing your questions, we note that despite the differences in wording between the MHRA and federal law, Missouri courts have generally followed federal precedent. Indeed, the rule in Missouri is that courts are to follow the interpretation of the federal anti-discrimination laws except where the MHRA language calls for a different result:

In deciding a case under the MHRA, appellate courts are guided by both Missouri law and federal employment discrimination caselaw that is consistent with Missouri law. . . . Missouri’s discrimination safeguards under the MHRA, however, are not identical to the federal standards and can offer greater discrimination protection. *See, e.g., Brady v. Curators of Univ. of Mo.*, 213 S.W.3d 101, 112-13

(Mo.App.2006) (discussing that MHRA & federal Title VII are “coextensive, but not identical, acts” and MHRA is “in some ways broader than Title VII, and in other ways is more restrictive”). “If the wording in the MHRA is clear and unambiguous, then federal caselaw which is contrary to the plain meaning of the MHRA is not binding.” *Id.* at 113.

Daugherty v. City of Maryland Heights, 231 S.W.3d 814, 818 (Mo. banc 2007).

Your first question relates to coverage of Missouri law with regard to the ability of individuals with disabilities to rent or purchase housing:

Does a person who has a disability that interferes with his/her ability to occupy a dwelling (e.g., a disabled person who needs an accessible unit and the building he/she is occupying, or seeks to occupy, does not meet the design and construction requirements of § 213.040.2, RSMo), have a “disability” within the meaning of § 213.010(4)?

The MHRA scheme differs somewhat from that of federal law. The federal law includes various rights for those who are disabled—or, to use the federal statute’s term, “handicapped.” Most pertinent is the following from 42 U.S.C. § 3604:

[I]t shall be unlawful—

....

(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

(A) that buyer or renter,

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that buyer or renter.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of—

(A) that person; or

(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

(C) any person associated with that person.

(3) For purposes of this subsection, discrimination includes—

(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after September 13, 1988, a failure to design and construct those dwellings in such a manner that—

(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(iii) all premises within such dwellings contain the following features of adaptive design:

(I) an accessible route into and through the dwelling;

(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(III) reinforcements in bathroom walls to allow later installation of grab bars; and

(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as "ANSI A117.1") suffices to satisfy the requirements of paragraph (3)(C)(iii).

(5)(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

....

(7) As used in this subsection, the term "covered multifamily dwellings" means—

(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

(B) ground floor units in other buildings consisting of 4 or more units.

The definition of "handicap" is found in § 3602:

(h)(1) "Handicap" means, with respect to a person—
a physical or mental impairment which substantially limits one or more of such person's major life activities,

(2) a record of having such an impairment, or
(3) being regarded as having such an impairment,

....

The MHRA is not identical to the federal law. The MHRA definition of "disability" includes three categories of persons that largely parallel those in the federal definition of "handicap": (1) a person with "a physical or mental impairment which substantially limits one or more of a person's major life activities"; (2) a person who is "regarded as having such an impairment," even if he or she is not actually so impaired; and (3) a person who has "a record of having such an impairment," again even if he or she does not currently have such an impairment. Section 213.010(4). But the MHRA definition does not end there.

In the MHRA, the statement of the three categories is followed by a comma, and then this phrase: "which with or without reasonable accommodation does not interfere with performing the job, utilizing the place of public accommodation, or occupying the dwelling in question." Thus the MHRA includes within the definition of persons with a "disability" those who can "occupy the dwelling in question" with no accommodation or with "reasonable accommodation." But the definition excludes those who cannot "occupy the dwelling in question" without more than "reasonable accommodation."

The answer to your first question, then, is that a person who has a disability that interferes with their ability to occupy a dwelling has a "disability" within the meaning of § 213.010(4) unless that disability is so severe that they cannot occupy the dwelling without something more than a "reasonable accommodation."

That does not, of course, precisely parallel the federal law. But nothing in the MHRA suggests that the Missouri General Assembly intended a result different from that reached under federal law. Indeed, the MHRA exclusion does not appear to have any practical significance. The federal statute, § 3604(3)(A) and (B), requires nothing more than “reasonable accommodation.” Thus, a person who refused to sell or lease to someone who could not occupy a dwelling without more than a “reasonable accommodation”—*i.e.*, someone in the class excluded by the MHRA—would not be violating the federal law. The MHRA and the federal law, then, reach the same result—barring discrimination based on disability when the purchaser or lessee can occupy the dwelling with reasonable or no accommodation—albeit by different means.

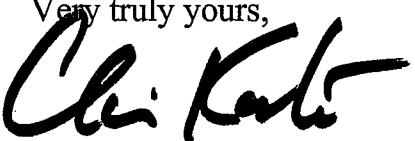
Your second question refers to persons against whom discrimination is barred as discussed above:

Would such a person have standing to file a complaint under the MHRA?

A person who has a “disability” as defined by the MHRA may seek relief under that statute. As to a complaint filed with the Commission, standing is provided to such a person by § 213.075.1 (“[a]ny person claiming to be aggrieved by an unlawful discriminatory practice may make, sign and file with the commission a verified complaint. . .”). Section 213.111 then provides such persons the ability to file a complaint in circuit court.

CONCLUSION

Persons who have disabilities that interfere with their ability to occupy a dwelling, but who can occupy a dwelling with reasonable accommodation, have a “disability” within the meaning of § 213.010(4), and can file a complaint and bring suit under the Missouri Human Rights Act.

Very truly yours,

CHRIS KOSTER
Attorney General

DISCRIMINATION:
HOUSING:
HUMAN RIGHTS COMMISSION –
HUMAN RIGHTS:

The Missouri Human Rights Act protects from coercion, intimidation, and harassment based on race, color, religion, national origin, ancestry, sex, disability, or familial status any person who exercises their fair housing rights under the Missouri Human Rights Act.

OPINION NO. 57-2010

April 22, 2010

Mr. Lawrence G. Rebman, Director
Missouri Department of Labor and
Industrial Relations
421 East Dunklin Street
Jefferson City, MO 65101

Dear Mr. Rebman:

You pose two alternative questions relating to the Missouri Human Rights Act (“MHRA”), Chapter 213, RSMo, resulting from an inquiry from the U.S. Department of Housing and Urban Development (“HUD”) to the Missouri Commission on Human Rights. The HUD questions apparently arise because of differences between the MHRA and the federal Fair Housing Act.

You asked:

Does the Missouri Human Rights Act (MHRA), Chapter 213, RSMo, prohibit coercion, intimidation, threats, harassment, and interference in the exercise and enjoyment of the right to fair housing as guaranteed by that Act? Or, stated another way, does the MHRA prohibit acts of coercion, intimidation, and harassment based on race, color, religion, national origin, ancestry, sex, disability, or familial status taken against a person who is simply living peacefully in his or her house?

Before addressing your questions, we note that despite the differences in wording between the MHRA and federal law, Missouri courts have generally followed federal precedent. Indeed, the rule in Missouri is that courts are to follow the interpretation of the federal anti-discrimination laws except where the MHRA language calls for a different result:

In deciding a case under the MHRA, appellate courts are guided by both Missouri law and federal employment discrimination caselaw that is consistent with Missouri law. . . . Missouri's discrimination safeguards under the MHRA, however, are not identical to the federal standards and can offer greater discrimination protection. *See, e.g., Brady v. Curators of Univ. of Mo.*, 213 S.W.3d 101, 112-13 (Mo.App.2006) (discussing that MHRA & federal Title VII are "coextensive, but not identical, acts" and MHRA is "in some ways broader than Title VII, and in other ways is more restrictive"). "If the wording in the MHRA is clear and unambiguous, then federal caselaw which is contrary to the plain meaning of the MHRA is not binding." *Id.* at 113.

Daugherty v. City of Maryland Heights, 231 S.W.3d 814, 818 (Mo. banc 2007).

The federal Act that you reference in your inquiry provides:

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 3603, 3604, 3605, or 3606 of this title.

42 U.S.C. § 3617. The federal law thus protects persons in protected classes from attempts to interfere with the fair housing rights provided by the referenced federal statutes.

The MHRA does not have a parallel provision. It does, however, reach the approximately same result by other means.

Section 213.040.1(1) prohibits unlawful housing practices based on a person's protected status. Section 213.040.1(2) states that it is unlawful to "discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, . . . because of race, color, religion, national origin, ancestry, sex, disability, or familial status." Section 213.040.1(6) further provides that it is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling because of a disability. And § 213.070 describes as an unfair discriminatory practice:

(1) To aid, abet, incite, compel, or coerce the commission of acts prohibited under this chapter or to attempt to do so;

(2) To retaliate or discriminate in any manner against any other person because such person has opposed any practice prohibited by this chapter . . . [or]

....

(4) To discriminate in any manner against any other person because of such person's association with any person protected by this chapter.

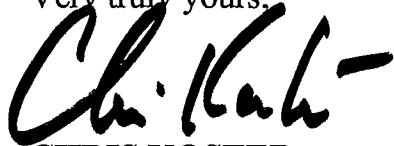
"Discrimination" is defined in the MHRA as "any unfair treatment based on race, color, religion, national origin, ancestry, sex, age as it relates to employment, disability, or familial status as it relates to housing" § 213.010(5).

These provisions of the MHRA effectively parallel 42 U.S.C. § 3617: by prohibiting all "unfair treatment" based on "disability," they provide protection from any kind of retaliation, intimidation, threats, or interference with fair housing rights. The fair housing rights provided under the MHRA essentially parallel those of the federal law (*compare, e.g.*, 42 U.S.C. § 3604 with § 213.040). Thus § 213.070(2) prohibits harassment with regard to housing rights as does 42 U.S.C. § 3617.

CONCLUSION

The Missouri Human Rights Act protects from coercion, intimidation, and harassment based on race, color, religion, national origin, ancestry, sex, disability, or familial status any person who exercises their fair housing rights under the Missouri Human Rights Act.

Very truly yours,



CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-8321

March 24, 2010

OPINION LETTER NO. 58-2010

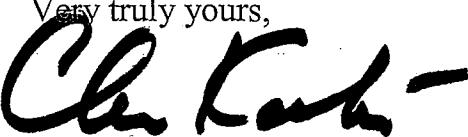
The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated March 15, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Article IV, Section 30 (version 2), Missouri Constitution, submitted by Steven Reed.

We approve the petition as to form, but § 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,


CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

April 9, 2010

OPINION LETTER NO. 62-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of April 2, 2010, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Steven Reed (version 2). The fiscal note summary that you submitted is as follows:

The additional revenue generated by the levy of a sales tax of one-tenth of one percent on fuel used by certain vehicles is approximately \$67.7 million. The estimated cost to state governmental entities is \$1,768. It is estimated the proposal would have no cost or savings to local governmental entities.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

April 15, 2010

OPINION LETTER NO. 64-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated April 8, 2010, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Steven Reed (version 2) regarding a proposed amendment to Article IV, Section 30 of the Missouri Constitution. The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to provide for a one tenth of one percent sales tax on motor vehicle fuel, the proceeds of which shall be used to develop rail passenger service in Missouri?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink that reads "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

April 22, 2010

OPINION LETTER NO. 65-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

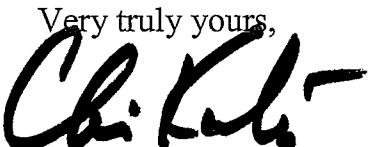
Dear Secretary Carnahan:

This opinion letter responds to your request dated April 19, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition, submitted by Theodis Brown.

We conclude that the petition must be rejected for at least the following reasons:

- The petition is not in the form prescribed by § 116.040, RSMo 2000.
- The petition does not contain “all matter which is to be deleted included in its proper place enclosed in brackets and all new matter shown underlined” as required pursuant to § 116.050, RSMo 2000.

Because of our rejection of the form of the petition for the reasons stated above, we have not reviewed the petition to determine if additional deficiencies exist. Pursuant to § 116.332.3, RSMo 2000, the Secretary of State is authorized to review this opinion and “make a final decision as to the approval or rejection of the form of the petition.”

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3821

May 26, 2010

OPINION LETTER NO. 72-2010

Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a proposed fair ballot language statement for the initiative petition relating to earnings taxes. The fair ballot language statement, prepared pursuant to § 116.025, RSMo, is as follows:

A “yes” vote will amend Missouri law to repeal the authority of certain cities to use earnings taxes to fund their budgets. The amendment further requires voters in cities that currently have an earnings tax, St. Louis and Kansas City, to approve continuation of such tax at the next general municipal election and at an election held every five years or to phase out the tax over a period of ten years.

A “no” vote will not change the current Missouri law regarding earnings taxes.

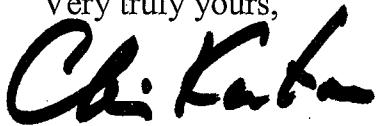
If passed, this measure will impact taxes by removing the ability of cities to fund their budgets through earnings taxes. The only exception is that voters in cities that currently have an earnings tax may vote to continue such taxes.

Honorable Robin Carnahan
Page 2
May 26, 2010

Pursuant to § 116.025, RSMo, we approve the legal content and form of the proposed fair ballot language statement.

Because our review of the fair ballot language statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the initiative petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

May 27, 2010

OPINION LETTER NO. 73-2010

Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a proposed fair ballot language statement for the initiative petition relating to repealing the non partisan court plan. The fair ballot language statement, prepared pursuant to § 116.025, RSMo, is as follows:

A “yes” vote will amend the Missouri Constitution to repeal the current nonpartisan court plan used to select judges and the current prohibition on judges participating in political campaigns. The amendment would require all judges to be selected through partisan elections. The amendment also reduces the terms for Supreme Court and Court of Appeals judges from 12 to 8 years.

A “no” vote will not change the Missouri Constitution regarding the selection of judges, the prohibition on judges participating in political campaigns, and the terms of Supreme Court and Court of Appeals judges.

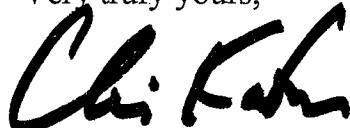
If passed, this measure will have no impact on taxes.

Pursuant to § 116.025, RSMo, we approve the legal content and form of the proposed fair ballot language statement.

Honorable Robin Carnahan
Page 2
May 27, 2010

Because our review of the fair ballot language statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the initiative petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,



CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

May 27, 2010

OPINION LETTER NO. 74-2010

Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a proposed fair ballot language statement for the initiative petition relating to dog breeders. The fair ballot language statement, prepared pursuant to § 116.025, RSMo, is as follows:

A “yes” vote will amend Missouri law to require large-scale dog breeding operations to provide each dog under their care with sufficient food, clean water, housing and space; necessary veterinary care; regular exercise and adequate rest between breeding cycles. The amendment further prohibits any breeder from having more than 50 breeding dogs for the purpose of selling their puppies as pets. The amendment also creates a misdemeanor crime of “puppy mill cruelty” for any violations.

A “no” vote will not change the current Missouri law regarding dog breeders.

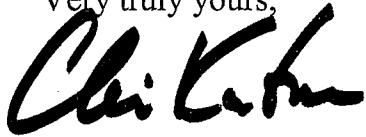
If passed, this measure will have no impact on taxes.

Pursuant to § 116.025, RSMo, we approve the legal content and form of the proposed fair ballot language statement.

Honorable Robin Carnahan
Page 2
May 27, 2010

Because our review of the fair ballot language statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the initiative petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

May 27, 2010

OPINION LETTER NO. 75-2010

Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a proposed fair ballot language statement for the initiative petition relating to real estate taxation. The fair ballot language statement, prepared pursuant to § 116.025, RSMo, is as follows:

A “yes” vote will amend the Missouri Constitution to prevent the state, counties, and other political subdivisions from imposing any new tax, including a sales tax, on the sale or transfer of homes or any other real estate.

A “no” vote will not change the Missouri Constitution to prevent the state, counties, and other political subdivisions from imposing a new tax on the sale or transfer of homes or any other real estate.

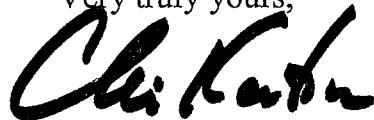
If passed, this measure will have no impact on taxes.

Pursuant to § 116.025, RSMo, we approve the legal content and form of the proposed fair ballot language statement.

Because our review of the fair ballot language statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the

Honorable Robin Carnahan
Page 2
May 27, 2010

initiative petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

CHRIS KOSTER
ATTORNEY GENERAL

65102

P.O. Box 899
(573) 751-3321

June 7, 2010

OPINION LETTER NO. 76-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of June 7, 2010, submitting a fiscal note and fiscal note summary prepared under §§ 116.170 and 116.175, RSMo. The fiscal note summary that you submitted is as follows:

It is estimated this proposal will have no immediate costs or savings to state or local governmental entities. However, because of the uncertain interaction of the proposal with implementation of the federal Patient Protection and Affordable Care Act, future costs to state governmental entities are unknown.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

June 23, 2010

OPINION LETTER NO. 78-2010

Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

You have submitted a proposed fair ballot language statement for Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 1764. The fair ballot language statement, prepared pursuant to § 116.025, RSMo, is as follows:

A “yes” vote will amend Missouri law to deny the government authority to penalize citizens for refusing to purchase private health insurance or infringe upon the right to offer or accept direct payment for lawful healthcare services. The amendment will also modify laws regarding the liquidation of certain domestic insurance companies.

A “no” vote will not change the current Missouri law regarding private health insurance, lawful healthcare services, and the liquidation of certain domestic insurance companies.

If passed, this measure will have no impact on taxes.

Pursuant to §116.025, RSMo, we approve the legal content and form of the proposed fair ballot language statement.

Because our review of the fair ballot language statement is mandated by statute, no action we take with respect to such review should be construed as an endorsement of the

Honorable Robin Carnahan
Page 2

legislation, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

November 12, 2010

OPINION LETTER NO. 91-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated November 5, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Article X, Missouri Constitution, submitted by Herman Kriegshauser.

We approve the petition as to form, but § 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

CHRIS KOSTER
ATTORNEY GENERAL

65102

P.O. Box 899
(573) 751-3321

November 18, 2010

OPINION LETTER NO. 92-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated November 10, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Article VI, Missouri Constitution, submitted by Ron Calzone.

We approve the petition as to form, but § 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".
CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

P.O. Box 899
(573) 751-3321

CHRIS KOSTER
ATTORNEY GENERAL

November 18, 2010

OPINION LETTER NO. 93-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated November 10, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Article I, Missouri Constitution, version 1a, submitted by Ron Calzone.

We approve the petition as to form, but § 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,


CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

P.O. Box 899
(573) 751-8821

CHRIS KOSTER
ATTORNEY GENERAL

November 18, 2010

OPINION LETTER NO. 94-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated November 10, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Article I, Missouri Constitution, version 1b, submitted by Ron Calzone.

We approve the petition as to form, but § 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".
CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

November 24, 2010

OPINION LETTER NO. 95-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated November 15, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Article X, Missouri Constitution, submitted by Richard LaViolette.

We approve the petition as to form, but § 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,


CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

December 2, 2010

OPINION LETTER NO. 98-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of November 24, 2010, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Herman Kriegshauser. The fiscal note summary that you submitted is as follows:

The cost to state and local governmental entities is estimated to exceed \$5 billion annually.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,


CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

CHRIS KOSTER
ATTORNEY GENERAL

65102

P.O. Box 899
(573) 751-8821

December 2, 2010

OPINION LETTER NO. 99-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated November 24, 2010, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Herman Kriegshauser regarding a proposed amendment to Article X of the Missouri Constitution. The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to provide a 60% state income tax credit for contributions or donations made by individuals and corporations to Missouri incorporated and operated charitable and educational not-for-profit corporations, organizations, institutions and foundations in addition to the deductions currently allowed for federal and state income taxes?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-8321

December 2, 2010

OPINION LETTER NO. 100-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated November 29, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition submitted by Theodis Brown.

We conclude that the petition must be rejected for at least the following reasons:

1. The petition is not in the form prescribed by § 116.040, RSMo 2000.
2. The petition does not contain “all matter which is to be deleted included in its proper place enclosed in brackets and all new matter shown underlined” as required pursuant to § 116.050, RSMo 2000.

Because of our rejection of the form of the petition for the reasons stated above, we have not reviewed the petition to determine if additional deficiencies exist. Pursuant to § 116.332.3, RSMo 2000, the Secretary of State is authorized to review this opinion and “make a final decision as to the approval or rejection of the form of the petition.”

Very truly yours,


CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3321

December 9, 2010

OPINION LETTER NO. 101-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of November 30, 2010, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Ron Calzone (pink paper). The fiscal note summary that you submitted is as follows:

The total cost or savings to state or local governmental entities is unknown. Most state governmental entities estimate no costs, however, one state governmental entity reported potential unknown costs. Estimated costs, if any, to local governmental entities could be significant.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-8821

December 9, 2010

OPINION LETTER NO. 102-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of November 30, 2010, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Ron Calzone (version 1a, green paper). The fiscal note summary that you submitted is as follows:

The total cost or savings to state or local governmental entities is unknown. Most state governmental entities estimate no costs, however, one state governmental entity reported potential unknown costs. Estimated costs, if any, to local governmental entities could be significant.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".
CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-8821

December 9, 2010

OPINION LETTER NO. 103-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of November 30, 2010, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Ron Calzone (version 1b, green paper). The fiscal note summary that you submitted is as follows:

The total cost or savings to state or local governmental entities is unknown. Most state governmental entities estimate no costs, however, one state governmental entity reported potential unknown costs. Estimated costs, if any, to local governmental entities could be significant.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".
CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

December 10, 2010

OPINION LETTER NO. 104-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of December 3, 2010, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Richard LaViolette. The fiscal note summary that you submitted is as follows:

Prohibiting the levy of tangible personal property taxes by local governments would eliminate or reduce funding for local governmental services, including public schools. State governmental services to the blind could lose funding. The estimated revenue reduction to state and local governmental entities could exceed \$1.1 billion annually.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".
CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

CHRIS KOSTER
ATTORNEY GENERAL

65102

P.O. Box 899
(573) 751-8321

December 10, 2010

OPINION LETTER NO. 105-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 3, 2010, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Ron Calzone regarding a proposed amendment to Article VI of the Missouri Constitution (pink paper). The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to change the power of the General Assembly and constitutionally chartered cities or counties to:

- Prohibit the use of eminent domain to acquire and resell property found to be blighted, substandard or unsanitary for the purpose of clearance, redevelopment or rehabilitation; and
- Allow them to require owners of property found to be a public nuisance to abate or clean up the nuisance and, if the property owner fails to do so in a reasonable time, allow the local government to pay for the abatement and impose a lien to recover the cost?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we

take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-8321

December 10, 2010

OPINION LETTER NO. 106-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 3, 2010, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Ron Calzone regarding a proposed amendment to Article I, version 1a of the Missouri Constitution (green paper). The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to restrict the use of eminent domain by:

- Allowing only government entities to use eminent domain;
- Prohibiting its use for private purposes, with certain exceptions for utilities;
- Requiring that any taking of property be necessary for a public use while continuing to provide just compensation;
- Requiring that the intended public use be declared at the time of the taking;

- Permitting the original owners to repurchase the property if it is not so used within five years or if the property is offered to a private entity within twenty years?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,



CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

December 10, 2010

OPINION LETTER NO. 107-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 3, 2010, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Ron Calzone regarding a proposed amendment to Article I, version 1b of the Missouri Constitution (green paper). The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to restrict the use of eminent domain by:

- Allowing only government entities to use eminent domain;
- Prohibiting its use for private purposes, with certain exceptions for utilities;
- Requiring that any taking of property be necessary for a public use while continuing to provide just compensation;
- Requiring that the intended public use be declared at the time of the taking;

- Permitting the original owners to repurchase the property if it is not so used within five years or if the property is offered to a private entity within twenty years?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,



CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

CHRIS KOSTER
ATTORNEY GENERAL

65102

P.O. Box 899
(573) 751-3321

December 15, 2010

OPINION LETTER NO. 108-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 6, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Chapter 115, Revised Statutes of Missouri, submitted by Matt Cologna.

We approve the petition as to form, but § 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".
CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY
65102

CHRIS KOSTER
ATTORNEY GENERAL

P.O. Box 899
(573) 751-3321

December 16, 2010

OPINION LETTER NO. 109-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 9, 2010, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Richard LaViolette regarding a proposed amendment to Article X of the Missouri Constitution. The proposed summary statement is as follows:

Shall the Missouri Constitution be amended to limit the authority of the General Assembly and political subdivisions to generate revenue by removing their ability to tax tangible personal property and both real and personal property used exclusively for religious worship, schools, colleges, agricultural and horticultural societies, veterans' organizations, or purely charitable purposes?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

CHRIS KOSTER
Attorney General
www.ago.mo.gov



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-8821

December 23, 2010

OPINION LETTER NO. 111-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 17, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Article VIII of the Missouri Constitution submitted by Matt Cologna (version 1).

We approve the petition as to form, but § 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,


CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

CHRIS KOSTER
ATTORNEY GENERAL

JEFFERSON CITY
65102

P.O. Box 899
(573) 751-3821

December 23, 2010

OPINION LETTER NO. 112-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 17, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition to amend Article VIII of the Missouri Constitution submitted by Matt Cologna (version 2).

We approve the petition as to form, but § 116.332 gives the Secretary of State final authority to approve or reject the petition. Therefore, our approval of the form of the petition does not preclude you from rejecting the petition.

Because our review of the petition is simply for the purpose of determining sufficiency as to form, the fact that we do not reject the petition is not to be construed as a determination that the petition is sufficient as to substance. Likewise, because our review is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or of the objectives of its proponents, or the expression of any view respecting the adequacy or inadequacy of the petition generally.

Very truly yours,

A handwritten signature in black ink that appears to read "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

CHRIS KOSTER
ATTORNEY GENERAL

65102

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(573) 751-3321

December 23, 2010

OPINION LETTER NO. 115-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 22, 2010, for our review under § 116.332, RSMo, of the sufficiency as to form of an initiative petition submitted by Theodis Brown.

We conclude that the petition must be rejected for at least the following reasons:

1. The petition is not in the form prescribed by § 116.040, RSMo 2000.
2. The petition does not contain “all matter which is to be deleted included in its proper place enclosed in brackets and all new matter shown underlined” as required pursuant to § 116.050, RSMo 2000.

Because of our rejection of the form of the petition for the reasons stated above, we have not reviewed the petition to determine if additional deficiencies exist. Pursuant to § 116.332.3, RSMo 2000, the Secretary of State is authorized to review this opinion and “make a final decision as to the approval or rejection of the form of the petition.”

Very truly yours,

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

CHRIS KOSTER
ATTORNEY GENERAL

65102

P.O. Box 899
(573) 751-3321

December 30, 2010

OPINION LETTER NO. 116-2010

The Honorable Susan Montee
Missouri State Auditor
State Capitol, Room 121
Jefferson City, MO 65101

Dear Auditor Montee:

This office received your letter of December 22, 2010, submitting a fiscal note and fiscal note summary prepared under § 116.175, RSMo, for an initiative petition submitted by Matt Cologna. The fiscal note summary that you submitted is as follows:

It is estimated state government entities would reimburse election authorities for incurred costs of at least \$974,016 in fiscal year 2015 (one-time costs of \$676,800 and on-going costs for each federal election of \$297,216). Those costs may be higher depending on the compensation, staffing and planning decisions of affected election authorities.

Under § 116.175, we approve the legal content and form of the fiscal note summary. Because our review of the fiscal note summary is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition or as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General



ATTORNEY GENERAL OF MISSOURI

JEFFERSON CITY

CHRIS KOSTER
ATTORNEY GENERAL

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P.O. Box 899
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December 30, 2010

OPINION LETTER NO. 117-2010

The Honorable Robin Carnahan
Missouri Secretary of State
James C. Kirkpatrick State Information Center
600 West Main Street
Jefferson City, MO 65101

Dear Secretary Carnahan:

This opinion letter responds to your request dated December 23, 2010, for our review under § 116.334, RSMo, of a proposed summary statement prepared for the petition submitted by Matt Cologna regarding a proposed amendment to Chapter 115 of the Revised Statutes of Missouri. The proposed summary statement is as follows:

Shall Missouri law be amended to expand options for voters by allowing them to cast ballots in person prior to federal general elections without the current absentee ballot excuse requirement?

Pursuant to § 116.334, RSMo, we approve the legal content and form of the proposed statement. Because our review of the statement is mandated by statute, no action that we take with respect to such review should be construed as an endorsement of the petition, nor as the expression of any view regarding the objectives of its proponents.

Very truly yours,

A handwritten signature in black ink, appearing to read "Chris Koster".

CHRIS KOSTER
Attorney General